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July 26, 1996

OUR FILE NO.  
0598-101-63

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

RE: MM Docket No. 96-120  
Grandfathered Short-Spaced FM Stations

Dear Mr. Caton

On July 22, 1996, the undersigned filed on behalf of Group M Communications, Inc., licensee of FM Broadcast Station WNNJ-FM, Newton, New Jersey, its Comments in the above-referenced rulemaking proceeding.

Group M's Comments were supported by an Engineering Exhibit prepared by Mr. Charles A. Hecht, of Charles A. Hecht & Associates, Inc. A facsimile copy of Mr. Hecht's Engineering Exhibit was attached to the Comments.

On behalf of Group M, I transmit herewith a re-executed original of its Comments, along with the original of Mr. Hecht's Engineering Exhibit, for association with the docket of the proceeding.

Kindly communicate any questions directly to this office.

Respectfully submitted,

  
John Wells King

JWK/cl

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Before The  
**Federal Communications Commission**

Washington, D.C. 20554

In the Matter Of	)	
	)	
Grandfathered Short-Spaced	)	MM Docket No. 96-120
FM Stations	)	RM-7651

TO: The Commission

**COMMENTS OF GROUP M COMMUNICATIONS, INC.**

Group M Communications, Inc. ("Group M"), by its counsel, hereby submits its comments in response to the *Notice of Proposed Rule Making in Docket No. 96-120*, FCC 96-236 (released June 14, 1996) ("NPRM").

**Introduction**

Group M is the licensee of WNNJ-FM, the only FM station licensed to Newton, New Jersey.<sup>1</sup> WNNJ-FM is a pre-1964 grandfathered short-spaced FM station. Like many FM stations, varying circumstances have forced WNNJ-FM to re-locate its transmitter site from time-to-time and make other changes in its transmission facilities throughout its existence. See *NPRM* at para. 23. As described in greater detail in the attached engineering exhibit ("Exhibit"), WNNJ-FM has experienced progressive facility downgrading with each transmitter re-location as a result of the constraints of the current language in Section 73.213 of the Commission's Rules.

The Commission seeks comment on several proposals for eliminating unnecessary regulation of pre-1964 grandfathered short-spaced FM stations

<sup>1</sup> Group M also operates WNNJ(AM), which is Newton's only AM station.

under Section 73.213. Specifically, the Commission proposes to change three aspects of Section 73.213(a) as follows: 1) use of predicted interference area analysis based on field strength protection ratios, instead of the current ambiguous limitation based on the relative locations of the 1 mV/m (60 dBu) service contour of the short-spaced stations; 2) eliminating the second-adjacent-channel and third-adjacent-channel protection criteria; and 3) eliminating the provision for agreements between grandfathered stations. *See NPRM* at para. 2.

Group M commends the Commission's acknowledgment of the inequities of Section 73.213 and supports the Commission's proposals to amend the rule to prevent further injury to grandfathered short-spaced stations. In addition, Group M submits that the Commission should restore service unfairly lost by stations such as WNNJ-FM under Section 73.213.

### **Background of WNNJ-FM**

WNNJ-FM has been severely short-spaced with first adjacent channel Class B FM station WKTU, Lake Success, New York since it went on the air on October 15, 1961.<sup>2</sup> As more fully described in the attached Exhibit, circumstances have required WNNJ-FM to re-locate its transmitter site three times in the past 15 years, each time producing a significant diminution in WNNJ-FM's service area.

Originally a Class B station operating on 103.7 MHz, Group M reached an agreement approximately 15 years ago with the then-licensee of WKTU to upgrade the technical facilities of WNNJ-FM to a 20 kilowatt station with a height above average terrain of 500 feet from a new transmitter site. *See*

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<sup>2</sup> WNNJ-FM was originally identified as WIXL-FM. WKTU was formerly identified as WTFM, WAPP, and WYNY.

*Exhibit*, p. 2. Despite Commission approval and issuance of a construction permit, Group M was unable to obtain the zoning approval needed to construct the tower and was forced to seek an alternative site.

A new site was located which increased the distance between WNNJ-FM and WKTU, but by that time the current version of Section 73.213 had been enacted, and Group M could obtain only 3.5 kilowatts at 758 feet and a demotion to a Class B1 facility. *See Exhibit*, p. 3. WNNJ-FM was licensed to operate from this site.

Later, problems developed with the site and a third site, even further from WKTU, was secured and authorized by the Commission. However, Section 73.213 mandated another reduction in WNNJ-FM's facilities to 2.3 kilowatts at 892 feet. *See Exhibit*, p. 3.

### **Conclusion**

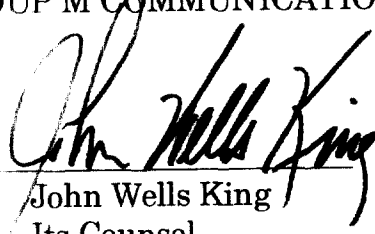
Site re-locations under Section 73.213 have produced a diminution of WNNJ-FM's service area from a Class B station with 20 kilowatts at 500 feet to a Class B1 station with 2.3 kilowatts at 892 feet. Group M applauds and supports the Commission's proposals to amend Section 73.213 to prevent the continued loss of service area and coverage that short-spaced stations have faced since the current language of the rule was adopted in 1987. But future amendment of Section 73.213 will not bring WNNJ-FM and other similarly situated short-spaced stations into parity with non-grandfathered short-spaced stations. Therefore, Group M believes that the Commission must go beyond

amending Section 73.213 and restore service unfairly lost by WNNJ-FM as a result of the years of enforcement of the rule.

Respectfully submitted,

GROUP M COMMUNICATIONS, INC.

By:

  
John Wells King  
Its Counsel

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July 22, 1996

ENGINEERING EXHIBIT COVERING COMMENTS

MM DOCKET NO. 96-120

GRANDFATHERED SHORT-SPACED FM STATIONS

GROUP M COMMUNICATIONS, INC.

NEWTON, NEW JERSEY

JULY 1996

ENGINEERING EXHIBIT COVERING COMMENTS

MM DOCKET NO. 96-120

GRANDFATHERED SHORT-SPACED FM STATIONS

GROUP M COMMUNICATIONS, INC.

NEWTON, NEW JERSEY

SUMMARY

This engineering exhibit has been prepared on behalf of Group M Communications, Inc. (Group M) in support of comments on MM Docket No. 96-120 concerning grandfathered short-spaced FM stations. Group M is the licensee of WNNJ-FM Newton, New Jersey. WNNJ-FM is a pre-1964 grandfathered short-spaced station. The purpose of this exhibit is bifold: 1) To provide a technical chronology of the constant facilities downgrading that Group M has had to endure each time it has been necessary to relocate the WNNJ-FM transmitter site under the constraints of the current version of Section 73.213 of the Rules. 2) To seek parity with regard to non grandfathered short-spaced stations in the form of restoration of service lost as a result of compliance with Section 73.213.

BACKGROUND

WNNJ-FM, formerly identified as WIXL, went on the air on October 15, 1961 as a Class B station operating on 103.7 megahertz. At that time WNNJ-FM was, and still is today, grossly short spaced with first adjacent channel Class B station WKTU Lake Success, New York. This station was formerly identified as WTFM, WAPP and WYNY. Approximately 15 years ago, Group M began negotiations with the licensee of WKTU to reach an agreement for both stations to upgrade their technical facilities. The technical operating parameters in effect at this point were an effective radiated power of 5 kilowatts with an antenna height of 141 feet above average terrain for WNNJ-FM. WKTU operated with full Class B facilities, employing a directional antenna to provide a modicum of protection to WNNJ-FM. An agreement was reached whereby WNNJ-FM would increase power to 20 kilowatts with a height above average terrain of 500 feet from a new transmitter site and WKTU would upgrade to a full Class B nondirectional facility transmitting from the top of the World Trade Center in New York City. This agreement was found to be in the public interest by the Commission and a construction permit was issued to both stations.

Despite several years of effort at great expense to Group M, the zoning approval needed to construct the tower necessary for



WNNJ-FM's upgrade could not be obtained even though Group M applied for approval at three sites in two townships. Group M was forced to abandon the site specified in its construction permit and seek an alternative site.

A new site was located in Frankford Township, New Jersey. By this time, the current version of Section 73.213 was in effect, and although this site increased the distance between WNNJ-FM and WKTU, the best Group M could obtain for this site was 3.5 kilowatts at 758 feet and a demotion to a Class B1 facility.

WNNJ-FM was licensed to operate from this site and did so until problems developed with the site owner that mandated another site relocation. A new site was secured and authorized by the Commission. Like the previous site, the new site was further from WKTU, but the current version of Section 73.213 forced another reduction in WNNJ-FM's facilities to 2.3 kilowatts at 892 feet. The reduction was required because the 1 mV/m contour of WNNJ-FM did get closer at some locations to the WKTU 1 mV/m contour even though the distance between the closest points of the contours actually increased.

CONCLUSION

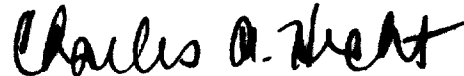
The case history of WNNJ-FM is a classic example of the inequities inherent in the current version of Section 73.213. WNNJ-FM's site relocations under this rule have produced a diminution of the stations's service area from a Class B with 20 kilowatts at 500 feet to a Class B1 with 2.3 kilowatts at 892 feet.

In Docket 96-120, the Commission acknowledges many of the inequities of Section 73.213 and seeks to prevent further injury to grandfathered short-spaced stations by amending the rule. Group M supports the Commission's efforts but believes the reality remains that many of the affected stations have been punished by the rule. Therefore, Group M believes that in addition to amending the rule, that the Commission should reestablish a level playing field by restoring service unfairly lost by the affected stations under Section 73.213.

CHARLES A. HECHT & ASSOCIATES, INC.  
BROADCAST CONSULTANTS

The foregoing was prepared by or under the immediate supervision of Charles A. Hecht of Charles A. Hecht & Associates, Inc., Pittstown, New Jersey, whose qualifications are a matter of record with the Federal Communications Commission. All statements herein are true and correct of his own knowledge except such statements made on information and belief, and as to those statements, he believes them to be true and correct.

Respectfully submitted,



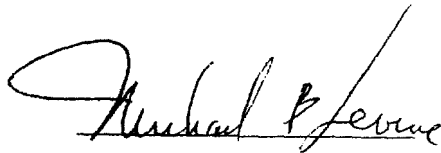
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16 Doe Run  
Pittstown, New Jersey 08867  
(908) 730-7959  
July 20, 1996

**103.7  
WNNJ**

DECLARATION

I, Michael B. Levine, have reviewed the attached. The facts and information contained therein are true and correct to the best of my knowledge and belief.

July 22, 1996



President  
Group M Communications Inc.  
Licensee of WNNJ-FM, Newton, N.J.

**Group M Communications, Inc.**

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